

SENATE BILL 2704

By Davis L

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 29 and Title 62, Chapter 35, relative to the regulation of private protective services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 62, Chapter 35, is amended by deleting such chapter in its entirety.

SECTION 2. Tennessee Code Annotated, Title 62, is amended by adding Sections 3 through 44 of this act, inclusive, as new Chapter 35.

SECTION 3. The purpose of this chapter is to protect the public by establishing certification, licensure and/or registration requirements for any person who provides or offers to provide security services to the general public.

SECTION 4. As used in this act, unless the context otherwise requires:

(1) "Commission" means the Tennessee private protective services commission;

(2) "Commissioner" means the commissioner of commerce and insurance or the commissioner's designee;

(3) "Person" means any individual, firm, association, company, partnership, corporation, non-profit organization, institution or similar entity; and

(4) "Principal corporate officer" means the chief executive officer, president, vice president, treasurer, secretary, or comptroller, as well as any other responsible officer or executive employee who performs functions for the corporation corresponding to those performed by the foregoing officers.

SECTION 5. (a) There is hereby created the Tennessee private protective services commission.

(b) The commission shall consist of seven (7) members appointed by the governor.

(1) Three (3) members shall be private security guards/officers, one (1) of whom shall be from each grand division of the state;

(2) Three (3) members shall be representatives of contract security companies and proprietary security organizations; and

(3) One (1) member shall be a person at least twenty-one (21) years of age who is not engaged in the occupation of private security guards/officers.

(c) Of the members initially appointed, two (2) shall serve terms of one (1) year, two (2) shall serve terms of two (2) years, two (2) shall serve terms of three (3) years, and one (1) shall serve a term of four (4) years. Thereafter, all appointments shall be made for a term of four (4) years from the expiration date of the preceding term, except that appointments made to fill vacancies shall be made for the duration of the unexpired term.

(d) The governor may remove any member of the board for misconduct, incompetence, willful neglect of duty, or other just cause.

(e) Members shall hold over after the expiration of their term until a successor is appointed and qualified.

(f) Members may succeed themselves, but no member shall serve more than eight (8) continuous years.

(g) Interested parties may submit up to four (4) names of qualified persons to fill any initial appointments to the commission or any vacancies that may occur.

(h) In making appointments to the commission, the governor shall strive to ensure that at least one (1) person serving on the board is sixty (60) years or older and that at least one (1) person serving on the board is a member of a racial minority.

#### SECTION 6.

(a) The commission shall be responsible for administering and enforcing the provisions of this act.

(b) The commission may promulgate such rules as are reasonably necessary to effectuate the purposes of this act. All such rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

(c) The commission may seek relief at law or equity to restrain or enjoin any act or practice in violation of this chapter, or of any rule promulgated hereunder. Jurisdiction is conferred upon the chancery and circuit courts of this state to hear and determine such a suit. No bond shall be required for the prosecution of the suit or for the issuance of an injunction.

SECTION 7. The provisions of the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, govern all matters and procedures respecting the hearing and judicial review of any contested case, as defined therein, arising under this chapter.

#### SECTION 8.

(a) Notwithstanding any other provision of law to the contrary, all monies collected pursuant to this act shall be deposited in the state treasury in a separate fund to be known as the "private security regulatory fund".

(b) Disbursements from such fund shall be made solely for the purpose of defraying expenses incurred in the implementation and enforcement of this act.

(c) No such expenses shall be payable from the general fund of the state.

(d) Any part of the private security regulatory fund remaining at the end of a fiscal year shall not revert to the general fund but shall be carried forward to defray future expenses until expended in accordance with the provisions of this act.

(e) Any funds remaining in the private security regulatory shall be transferred to the private security regulatory fund when the licensing requirements under this act become effective.

SECTION 9. As used in this part, unless the context otherwise requires:

(1) "Armed security officer/guard" means a security officer/guard who at any time wears, carries, possesses, or has access to a firearm, or any facsimile of any firearm which may leave the impression that such person is armed, and who works in plainclothes or wears dress of a distinctive design or fashion, or dress having any symbol, badge, emblem, insignia or device which identifies or tends to identify the wearer as a security officer/guard;

(2) "Branch manager" means the individual who is immediately responsible for the operation of a branch office;

(3) "Branch office" means any office of a contract security company within this state other than its principal place of business within this state;

(4) "Certified trainer" means any individual certified by the commission as qualified to administer and certify to successful completion of the minimum training requirements prescribed by this part for a security guard/officer;

(5) "Contract security company" means any person engaging in the business of providing, or undertaking to provide, a security guard and patrol service on a contractual basis for another person;

(6) "Licensee" means any contract security company licensed in accordance with the provisions of this part;

(7) "Principal corporate officer" means the chief executive officer, president, vice president, treasurer, secretary or comptroller, as well as any other responsible officer or executive employee who performs functions for the corporation corresponding to those performed by the foregoing officers;

(8) "Proprietary security organization" means any person or department thereof which employs a security guard/officer solely for such person in an employer/employee relationship;

(9) "Qualifying agent" means a principal corporate officer meeting the qualifications set forth in this part for operating a contract security company;

(10) "Qualifying manager" means an individual designated by a proprietary security organization to be responsible for compliance with the provisions of this part on behalf of such organization;

(11) "Registrant" means an individual who holds a valid registration card;

(12) "Registration card" means a pocket card issued by the commission evidencing that the holder has met the qualifications required by this part to perform the duties of a security guard/officer in this state;

(13) "Security guard/officer" means an individual employed by a contract security company or a proprietary security organization to perform any function of a security guard and patrol service;

(14) "Security guard and patrol service" means protection of persons and/or property from criminal activities, including, but not limited to:

(A) Prevention and/or detection of intrusion, unauthorized entry, larceny, vandalism, abuse, fire or trespass on private property;

(B) Prevention, observation or detection of any unauthorized activity on private property;

(C) Enforce rules, regulations or local or state laws on private property;

(D) Control, regulation or direction of the flow or movements of the public, whether by vehicle or otherwise on private property; or

(E) Street patrol service;

(15) "Street patrol service" means the utilization of foot patrols, motor patrols, or any other means of transportation in public areas or on public thoroughfares in order to serve multiple customers or facilities. The term does not apply to:

(A) A management supervisor moving from one (1) customer or facility to another to inspect personnel; or

(B) A security guard/officer traveling from one (1) facility to another to serve the same customer with multiple facilities;

(16) "Sworn law enforcement officer" means any individual who derives plenary or special law enforcement powers (such as the power of arrest) from, and is an employee of, a federal, state, or local government agency or instrumentality;

(17) "Unarmed security officer/guard" means a security officer/guard who never wears, carries, or has access to a firearm, or any facsimile of a firearm, which may leave the impression that such person is armed with a firearm, but who may carry other non-lethal devices as prescribed herein with the proper certification, and who works in plainclothes or wears dress of a distinctive design or fashion, or dress having any symbol, badge, emblem, insignia, or device which identifies or tends to identify the wearer as a security officer/guard; and

(18) "Undercover agent" means an individual hired by another person, through a contract security company to perform a job in and/or for that person, and while performing such job, to act as an undercover employee, independent contractor, or operative of such person, but under the supervision of such contract security company.

#### SECTION 10.

(a) The provisions of this part do not apply to:

- (1) A government officer or employee performing official duties;
- (2) A consumer reporting agency, as defined by the Federal Fair Credit Reporting Act;
- (3) An attorney at law, or his agent, performing duties relating to the attorney's practice of law;
- (4) An insurance company, agent, broker or adjuster performing investigative duties in connection with insurance business transacted;
- (5) A holder of a purchase money security interest, or his agent, repossessing the personal property in which such interest is held;
- (6) A private business employee conducting investigations relating to the internal affairs of such business;
- (7) A full-time sworn law enforcement officer receiving compensation for services as a guard, patrolman or watchman under a contract with a private business which has met the requirements of this part; or
- (8) An unarmed employee, whether uniformed or nonuniformed, in the course and scope of employment of a hospital who exceeds all training requirements established in Section 72 of this act, by having received not less than twelve (12) classroom hours of training. The course curriculum for such training shall be on file with the commission;
- (9) Private entities contracting with governmental entities for the care, supervision and/or transportation of inmates. This exemption shall in no way authorize government contracts for the care, supervision and/or transportation of inmates;
- (10) A person who is compensated by a resort area owner or management company and who has received a commission from the chief law enforcement officer of the appropriate governmental entity. Within one (1) year of

being so employed, such person shall have completed a training program approved by the commissioner. Such program shall be approved only if all training requirements and the qualifications for the employee are equivalent to or superior to those required for a law enforcement officer under the standards established by the Peace Officer Standards and Training Commission for law enforcement officers. The commissioner shall approve the exemption established by this subsection for each employee utilizing such exemption;

(11) A special deputy appointed pursuant to §8-8-212 or a special police officer appointed by the chief of police in a county having a metropolitan form of government and a population in excess of five hundred thousand (500,000) according to the 1990 federal census or any subsequent federal census;

(12) A retired peace officer receiving compensation for services as a guard, patrol or watchperson under a contract with a private business which is properly licensed by the state; provided, that such retired peace officer:

(A) Completes the firearms and marksmanship training required by §62-35-118(b); and

(B) Has a written directive issued by the executive supervisor of the organization to which such person was attached or employed authorizing such person to carry a handgun; or

(13)(A) One (1) designated employee per business location of a private company, firm, partnership, or corporation that is not a contract security company or proprietary security organization whose duties include those of an unarmed security guard/officer during nonbusiness hours.

(B) Pursuant to this subdivision, no person, while performing any function of a security guard and patrol service during non-business hours, shall:



(i) Wear or display any badge, insignia, shield, patch or pattern which:

(a) Indicates or tends to indicate that such person is a sworn peace officer;

(b) Contains or includes the word "police" or the equivalent thereof; or

(c) Is similar in wording to any law enforcement agency in this state; or

(ii) Have or utilize any vehicle or equipment which:

(a) Displays the words "police," "law enforcement officer," or the equivalent thereof; or

(b) Has any sign, shield, accessory or insignia that may indicate that such vehicle or equipment belongs to a public law enforcement agency.

(b)(1) The provisions of §62-35-118(a), only, shall not apply to a person employed as an unarmed security guard/officer by a proprietary security organization.

(2) For the purposes of this subsection, an unarmed security guard/officer shall not carry a weapon of any kind.

(3) It is the desire of the general assembly that unarmed proprietary security guards/officers whose primary duties involve contact with the public should have training in the areas of legal powers and limitations, and of emergency procedures as deemed necessary by their

employers. The commissioner may provide such  
employers information concerning these areas.

SECTION 11. Except as otherwise provided in this part, it is unlawful for any person to  
act as a contract security company without having first obtained a license from the commission.

## SECTION 12.

(a) An application for a contract security company license shall be filed with the  
commission on the prescribed form. The application shall include:

(1) The full name and business address of the applicant; or

(A) If the applicant is a partnership, the name and address of each  
partner; or

(B) If the applicant is a corporation, the name and address of the  
qualifying agent;

(2) The name under which the applicant intends to do business;

(3) The address of the principal place of business and all branch offices of  
the applicant within this state;

(4) As to each individual applicant, or, if the applicant is a partnership, as  
to each partner, or, if the applicant is a corporation, as to the qualifying agent, the  
following information:

(A) Full name;

(B) Date and place of birth;

(C) All residences during the immediate past five (5) years;

(D) All employment or occupations engaged in during the  
immediate past five (5) years;

(E) Three (3) sets of classifiable fingerprints;

(F) Three (3) credit references from lending institutions or business firms with whom the subject has established a credit record; and

(G) A list of all convictions and pending charges of commission of a felony or misdemeanor in any jurisdiction;

(5) If the applicant is a corporation, the following information:

(A) The legal name of the corporation;

(B) The state and date of incorporation;

(C) The date the corporation qualified to do business in this state;

(D) The address of the corporate headquarters, if located outside this state; and

(E) The names of two (2) principal corporate officers other than the qualifying agent, and the business address, residence address, and the office held by each in the corporation; and

(6) Such other information as the commission may reasonably require.

(b) The application shall be subscribed and sworn to:

(1) By the applicant, if the applicant is an individual;

(2) By each partner, if the applicant is a partnership; or

(3) By the qualifying agent, if the applicant is a corporation.

(c) Any individual signing the application must be at least twenty-one (21) years of age.

SECTION 13. Each individual applicant, or, if the applicant is a partnership, each partner, or, if the applicant is a corporation, the qualifying agent, shall:

(1) Be at least twenty-one (21) years of age;

(2) Be a citizen of the United States or a resident alien;

(3) Not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease unless a court of competent jurisdiction has since declared the applicant competent;

(4) Not be suffering from habitual drunkenness or narcotics addiction or dependence;

(5) Be of good moral character; and

(6)(A) Possess at least three (3) years of experience as a manager, supervisor, or administrator with a contract security company or proprietary security organization;

(B) Possess at least three (3) years of experience satisfactory to the commission, with any federal, United States military, state, county or municipal law enforcement agency; or

(C) Pass an examination to be administered at least twice annually by the commission, designed to measure knowledge and competence in the contract security company business.

#### SECTION 14.

(a) Upon receipt of an application for a license, the commission shall:

(1) Conduct an investigation to determine whether the statements made in the application are true;

(2) Compare, or request that the Tennessee bureau of investigation compare, the fingerprints submitted with the application to fingerprints filed with the bureau; and

(3) Submit the fingerprints to the federal bureau of investigation for a search of its files to determine whether the individual fingerprinted has any recorded convictions.

(b) The commission shall issue a license, in a form that the commission shall prescribe, to qualified applicants upon receipt of a nonrefundable, nonproratable fee in accordance with the schedule promulgated by the commission.

(c) If an application for a license is denied, the commission shall notify the applicant in writing and shall set forth the grounds for denial. If such grounds are subject to correction by the applicant, the notice of denial shall so state and specify a reasonable period of time within which the applicant must make the required correction.

(d) An application shall be accompanied by a notarized statement sworn to by the applicant as to the number of employees in service. Making a false statement shall be punishable by a civil penalty not to exceed one thousand dollars (\$1,000) and assessment of the maximum application fee.

SECTION 15. Every license issued under this part shall be posted conspicuously in the licensee's principal place of business in this state.

SECTION 16. No contract security company license shall be transferable or assignable.

SECTION 17.

(a) A contract security company license, or renewal thereof, shall be valid for a period of two (2) years from the date of issuance. The commission shall provide each licensee with a renewal application form sixty (60) days before the expiration of the license.

(b) The fee for timely renewal of a license shall be in accordance with the schedule promulgated by the commission. A penalty fee as prescribed by the commission will be assessed on any renewal application postmarked after the expiration date of the license.

(c) Licenses may be renewed up to three (3) months after their expiration by the payment of the renewal fee, plus a penalty established by the commission for each month or portion thereof which elapses before payment is tendered.

(d) A renewal application shall be accompanied by a notarized statement sworn to by the applicant as to the number of employees in service. Making a false statement shall be punishable by a civil penalty of two hundred fifty dollars (\$250) and assessment of the maximum renewal fee.

#### SECTION 18.

(a) If the qualifying agent of a licensee ceases to perform his duties on a regular basis, the licensee shall:

(1) Within thirty (30) days, notify the commission by certified or registered mail; and

(2) Within three (3) months, obtain a substitute qualifying agent.

(b) The commission may, in its discretion, extend the period for obtaining a substitute qualifying agent for a reasonable time.

SECTION 19. A licensee shall notify the commission in writing within thirty (30) days of:

(1) Any change in the qualifying agent or principal corporate officers identified in its application for license;

(2) Any material change in the information previously furnished or required to be furnished to the commission; or

(3) Any occurrence that could reasonably be expected to affect the licensee's right to a license under this part.

#### SECTION 20.

(a) If the ownership of a contract security company changes, the new owner, if not already a licensee, may not operate that company more than thirty (30) days after the date of such change of ownership unless, within such thirty-day period, the new owner submits an application for a license. If such application is submitted, the new owner may continue to operate such company until the application has been finally determined by the commission.

(b) For good cause, the commission may extend the period for submitting an application pursuant to subsection (a) for a reasonable time.

SECTION 21. All licensees and employers of private security guards/officers shall retain a certificate of insurance evidencing general liability coverage for the negligent act or acts of the principal insured or his agents operating in the course and scope of employment for bodily injury, personal injury and property damage, with endorsements for personal injury, including false arrest, libel, slander and invasion of privacy, in the minimum amount of three hundred thousand dollars (\$300,000) for bodily or personal injury and one hundred thousand dollars (\$100,000) for property damage. Such certificate shall be available for inspection during normal business hours on request of the commission or duly appointed and identified representative(s). The certificates shall provide that the insurance shall not be modified or canceled without thirty (30) days prior notice to the commission. All persons required to be insured by this part must be insured by a carrier approved in the state in which the insurance has been purchased or in this state.

#### SECTION 22.

(a) Except as otherwise provided in this part, it is unlawful for any individual to act as an armed or unarmed security guard/officer without having first obtained the appropriate registration card from the commission.

(b) Any individual who holds a valid "armed security guard/officer" registration card may act as an armed or unarmed security guard/officer thereunder.

(c) Any individual who is employed exclusively as an undercover agent is not required to hold a registration card.

#### SECTION 23.

(a) An application for a registration card shall be filed with the commission on the prescribed form. The application shall be accompanied by nonrefundable and nonproratable fees for both armed and unarmed registrations. The commission shall

establish the amounts of the fees in varying amounts for different types of registrations at reasonable levels. The applicant shall furnish the following information:

- (1) Name and current residence address;
- (2) Date and place of birth;
- (3) Social security number;
- (4) Telephone number, if any;
- (5) All residences during the immediate past five (5) years;
- (6) All employment or occupations engaged in during the immediate past five (5) years;
- (7) Three (3) sets of classifiable fingerprints;
- (8) Three (3) head-and-shoulder photographs taken within the last six (6) months;
- (9) A general physical description;
- (10) A list of all convictions and all pending charges of a felony or misdemeanor in any jurisdiction;
- (11) A list of all names used by the applicant other than the name by which he is currently known, with a statement explaining where, when and why such names were used;
- (12) A statement whether the applicant has ever been issued or denied a registration card in any jurisdiction and whether such card, if issued, has ever been revoked or suspended;
- (13) Type of military discharge; and
- (14) Type of security guard/officer registration card, "armed" or "unarmed," applied for. If the applicant seeks an armed registration card, the application shall also include a signed sworn statement that the applicant has had no convictions in any state for a felony.



(b) Any applicant who has already submitted an application for registration or to whom a valid registration card has been issued may submit an application to change registration status from unarmed to armed, or from armed to unarmed status. The commission may establish the amounts of the fees at levels lower than those required for an initial application for registration.

SECTION 24. Each applicant for a registration card shall:

(1) Be at least twenty-one (21) years of age if applying for an armed registration card or at least eighteen (18) years of age if applying for unarmed registration;

(2) Be a citizen of the United States or resident alien;

(3) Not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease unless a court of competent jurisdiction has since declared the applicant competent;

(4) If convicted in any jurisdiction of any of the crimes listed herein, have completed serving sentence or court ordered probation at least five (5) years prior to application. Conviction of the following crimes shall disqualify an applicant, subject to the conditions stated in this section:

(A) Any felony; or

(B) Any misdemeanor involving:

(i) Shooting a firearm or other weapon;

(ii) Shoplifting;

(iii) Assault and battery or other act of violence against persons or property;

(iv) Crimes involving the sale, manufacture or distribution of controlled substances, drugs or narcotics;

(v) Theft of property; or

(vi) Theft of services;

(5) Not be suffering from habitual drunkenness or narcotics addiction or dependence;

(6) Not have any disability which, in the opinion of the commission, prevents the applicant from performing the duties of a security guard/officer; and

(7) Be of good moral character.

#### SECTION 25.

(a) Before issuance of the registration card, and within thirty (30) days of employment, the applicant shall complete at least four (4) hours of general training administered by a certified trainer, and pass an examination, covering at least the following subjects:

(1) Orientation: one (1) hour;

(2) Legal powers and limitations of a security guard/officer: one (1) hour;

(3) Emergency procedures: one (1) hour;

(4) General duties: one (1) hour; and

(5) For applicants for private security officer/guard registration who will carry a club, stun gun, chemical spray, night stick, or other less than lethal device, the commission shall require appropriate training specific to such device by a certified trainer who is certified to instruct for such specific device. It is the employer's responsibility to keep training records of employees for each specific device. The security officer/guard shall also have in such person's possession a certification card issued by an instructor/trainer who is certified to instruct/train in the legal use of such specific device and shall exhibit such card upon demand by the commission or the commission's duly authorized agent or any full-time law enforcement officer.

(b) If applying for an "armed security guard/officer" registration card, before being issued a firearm, the applicant shall also:

(1) Complete at least eight (8) additional classroom hours of firearms training administered by a certified trainer, and pass an examination, covering at least the following subjects:

(A) Legal limitations of the use of a firearm;

(B) Handling of a firearm; and

(C) Safety and maintenance; and

(2) Complete at least four (4) hours of marksmanship training administered by a certified trainer, and achieve a minimum of seventy percent (70%) on any silhouette target course approved by the commission.

(c) A statement from a certified trainer certifying the satisfactory completion of the training required herein must be submitted to the commission within thirty (30) days of employment.

(d)

(1) The requirements of subsection (a) do not apply to those applicants for registration as "unarmed security guards/officers" who have had not less than four (4) hours of training equivalent to that required in subsection (a) in the year prior to filing the application.

(2) The requirements of subsection (b) do not apply to those applicants for registration as "armed security guards/officers" who have had not less than twelve (12) hours of training equivalent to that required in subsection (b) in the year prior to filing the application.

(3) The requirements of subsections (a) and (b) do not apply to an applicant for registration, who is a sworn law enforcement officer and certified by the police officer standards and training commission. The commission may issue

a temporary registration card to such officer upon the commission's verification of the officer's certification.

#### SECTION 26.

(a)(1) Upon receipt of an application for a registration card, the commission:

(A) Shall conduct an investigation to determine whether the statements made in the application are true;

(B) Shall cause the applicant's fingerprints to be compared with fingerprints filed with the Tennessee bureau of investigation; and

(C) If the application is for an "armed security guard/officer" registration card, shall, or if the application is for an "unarmed security guard/officer" registration card may, submit the applicant's fingerprints and photograph to the federal bureau of investigation for a search of its files to determine whether the applicant has any recorded convictions;

(2) The department of commerce and insurance has the authority to query the Tennessee bureau of investigation's Tennessee criminal history records system for the following information:

(A) Tennessee criminal history records;

(B) Tennessee repository for apprehension of persons (TRAP); and

(C) State of Tennessee orders of protection files (STOP).

Such records may be used in lieu of fingerprint background checks for the issuance of unarmed security guard/officer registrations or for the issuance of conditional armed security guard/officer registrations, if requested.

(b) Pending issuance or denial of a registration card (or renewal thereof) by the commission, the applicant may work as an unarmed security guard/officer if a copy of the completed application is kept on the applicant's person while on duty. A qualified applicant may receive a conditional armed registration card pending receipt of the

federal bureau of investigation report. The commission shall notify such applicant by postcard that all elements required for the armed registration card have been satisfied except for receipt of the federal bureau of investigation report. The applicant may use the postcard as a conditional armed registration card until the application is ultimately granted or denied. The postcard shall include an expiration date, which shall be established by the department. If no determination is made on the original application before the expiration of the conditional armed registration card, a second conditional armed registration card may be issued.

(c)

(1) The commission shall issue to a qualified applicant a registration card for armed or unarmed security officer registration, upon receipt of the appropriate payment of fees and a statement from a certified trainer that the training required by this part has been completed. The commission shall establish the appropriate amounts for the fees required by this subsection.

(2) The commission shall issue to a qualified applicant who is a sworn law enforcement officer a registration card for armed or unarmed security officer registration upon receipt of the appropriate payment of fees and verification of the officer's police officer standards and training commission certification.

## SECTION 27.

(a) The receipt, application or registration card shall be exhibited upon request of a member of the commission, full-time law enforcement officer, or an employer to verify that the security officer/guard is working pursuant to the requirements of this part.

(b) A security officer/guard shall provide written notice to the commission or the commission's designee and to the licensee or the proprietary security organization which employs the security officer/guard of any arrest and resulting conviction, except for minor traffic violations, within thirty (30) days of such arrest or conviction.

SECTION 28. No registration card shall be transferable or assignable.

SECTION 29.

(a) All registration cards, or renewals thereof, shall expire two (2) years from the date of issuance.

(b) The commission shall establish the fees in reasonable amounts for the timely renewal of armed or unarmed registration cards.

(c) Registrations may be renewed up to three (3) months after their expiration by payment of the renewal fee plus a penalty established by the commission for each month or portion thereof which elapses before payment is tendered.

(d) Every armed security guard/officer shall as a prerequisite for the renewal of such person's registration card:

(1) Complete four (4) hours of refresher training administered by a certified trainer in the subjects listed in Section 72(b)(1) of this act; and

(2) Requalify in the use of a firearm by achieving a minimum of seventy percent (70%) on any silhouette target course approved by the commission.

SECTION 30.

(a) It is unlawful for any person to act as a proprietary security organization without first having notified the commission in writing. The notice shall include:

(1) The full name and business address of the proprietary security organization;

(2) The name and the business and residence addresses of the qualifying manager; and

(3) Such other information as the commission may reasonably require.

(b) Notwithstanding the requirements of subsection (a), a hospital which employs only unarmed security guards/officers may voluntarily elect to submit to the requirements for a proprietary security organization under this part and evidence such election by filing

with the commission the notice required in subsection (a). Such notice is revocable by such hospital at any time upon appropriate notice of revocation.

#### SECTION 31.

(a) A licensee or proprietary security organization shall immediately notify the commission upon receipt of any information relating to a registrant's continuing eligibility to hold a registration card under the provisions of this part.

(b) A licensee or proprietary security organization shall provide written notice to the commission or the commission's designee of any arrest and/or conviction, except for minor traffic violations, within thirty (30) days of being notified or learning of such arrest and/or conviction of:

(1) The licensee or its qualifying agent; or

(2) Any person employed as a security officer/guard by the licensee or the proprietary security organization.

SECTION 32. An armed security officer/guard may carry only such types of firearms as the commission shall, by rules and regulations, prescribe in the performance of such person's duties. A security officer/guard may carry a firearm only if certified to carry such firearm. With proper certification, an unarmed or armed security officer/guard may carry any other type weapon to include, but not be limited to, clubs/batons, stun guns, chemical sprays, or any other tool or weapon that the commission may prescribe.

#### SECTION 33.

(a) An individual is eligible to become a certified trainer only if the individual:

(1) Is at least twenty-one (21) years of age;

(2) Has at least one (1) year of supervisory experience satisfactory to the commission with a contract security company or proprietary security organization, or with any federal, United States military, state, county or municipal law enforcement agency; and

(3) Is personally qualified to conduct the training required by this part.

(b) A certified trainer may, in such trainer's discretion, instruct personally or use a combination of personal instruction, audio and/or visual training aids.

(c) To assist in the implementation of the training program, the certified trainer may appoint as an instructor any individual who:

(1) Is at least twenty-one (21) years of age; and

(2) Has at least one (1) year of experience with any federal, United States military, state, county or municipal law enforcement agency, or with a contract security company or proprietary security organization.

(d) A certified trainer may be an employee of a contract security company or proprietary security organization.

(e) The certified trainer shall certify to the successful completion of training required by this part and shall submit such certification to the commission prior to issuance of a registration card, or renewal thereof, in the case of armed security guards/officers.

(f) The commission shall charge and collect an annual fee of one hundred fifty dollars (\$150) or in such other amount as set by the commission for certification of a trainer hereunder.

(g) Certifications may be renewed up to three (3) months after their expiration by payment of the renewal fee, plus a penalty established by the commission for each month or portion thereof which elapses before payment is tendered.

SECTION 34. No person, while performing any function of a security guard and patrol service, shall:

(1) Wear or display any badge, insignia, shield, patch or pattern which:

(A) Indicates or tends to indicate that such person is a sworn law enforcement officer;



(B) Contains or includes the word "police" or the equivalent thereof, or

(C) Is similar in wording to any law enforcement agency in this state; or

(2) Have or utilize any vehicle or equipment which:

(A) Displays the words "police," "law enforcement officer," or the equivalent thereof, or

(B) Has any sign, shield, accessory or insignia that may indicate that such vehicle or equipment belongs to a public law enforcement agency.

SECTION 35. No security guard/officer shall wear any military or police-style uniform, except for rainwear or other foul-weather clothing, unless such uniform has:

(1) Affixed over the left breast pocket on the outermost garment and on any cap a badge or insignia distinct in design from that utilized by any law enforcement agency in this state, unless the licensed security officer is in plain clothes; and

(2) Affixed over the right breast pocket on the outermost garment a name plate or tape with the name of the security guard/officer on it, unless the licensed security officer is in plain clothes.

SECTION 36. The commission or the commission's designee may at all reasonable hours conduct inspections/investigations of contract security companies, proprietary security organizations, and security officers/guards to ensure compliance with this part.

SECTION 37.

(a) The commission may take disciplinary action against a licensee, registrant or applicant, deny an application for a license or registration, or may suspend, revoke, or refuse to issue or renew any certificate, certified trainer license, license or registration card hereunder upon finding that the holder or applicant has:

(1) Violated any provision of this part, or any rule promulgated hereunder;

(2) Practiced fraud, deceit or misrepresentation;

(3) Knowingly and willfully made a material misstatement in connection with an application for a license or registration card;

(4) Been convicted by a court of competent jurisdiction of any felony or of a misdemeanor, if the commission finds that such conviction reflects unfavorably on the fitness for such license or registration card;

(5) Committed any act which would have been cause for refusal to issue such license or registration card had it existed and been known to the commission at the time of issuance;

(6) Engaged in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud or harm the public;

(7) Willfully deceived or defrauded a member of the public being protected;

(8) Acted as a contract security company or proprietary security company without a currently valid license;

(9) Acted as an armed or unarmed security officer/guard on a registration card that has expired or without a valid registration card as this part requires;

(10) Violated any disciplinary order of the commission; or

(11) Failed or refused to cooperate with any inspection or investigation to determine compliance with this part or rules and regulations promulgated pursuant thereto.

(b) In addition to or instead of any other lawful disciplinary action under this section, the commission may assess a civil penalty of up to five thousand dollars (\$5,000) for each statute or rule violation.

(c) The commission may assess a civil penalty of up to five thousand dollars (\$5,000) per occurrence upon any person who operates without the proper license or other authorization required.

(d) A license or registration card shall be subject to expiration and renewal during any period in which such license or registration card is suspended.

#### SECTION 38.

(a)(1) No licensee or registrant shall be required to obtain any authorization, permit, or license from or to pay any other fee or post a bond in any municipality, county or other political subdivision of this state to engage in any business or activity regulated under this chapter.

(2) Notwithstanding the provisions of subdivision (a)(1), a municipality, county or other political subdivision of this state may impose:

(A) A bona fide business tax; and

(B) Regulations upon any person who furnishes street patrol services, including a requirement that such person register with a designated agency.

(b) When a security guard/officer is working in another jurisdiction other than the security guard/officer's primary county, the chief law enforcement officer of the county in which such security guard/officer is working shall be notified where the security guard/officer will be assigned and the length of the assignment. This shall be done in writing by the employer of the security guard/officer, unless other arrangements are made with the chief law enforcement officer of the county, within five (5) days of the date of first service. The chief law enforcement officer and such officers/deputies shall recognize the state-issued security armed card as valid in their jurisdiction while any security guard/officer is traveling to or from a job site and while performing duties while at the job site, or while any representative of a security company, supervisor or officers are traveling to or from job sites, or operating as a street patrol service.

(c) The chief law enforcement officer of a county may require an individual to present proof of compliance with this chapter.

(d) The chief law enforcement officer shall waive provisions relative to training for those individuals properly and duly registered and in possession of a valid armed registration card. If a valid objection exists, however, proof or information indicating training should not be waived shall be sent to the commissioner or the commissioner's designee within ten (10) days of such objection, along with a written explanation of the chief law enforcement officer's objection. A security guard/officer shall not work in any jurisdiction in which the chief law enforcement officer has a pending objection to the training qualifications of such security guard/officer.

(e) In any county having a metropolitan form of government, the chief of police shall be the chief law enforcement officer (CLEO). In counties not having a metropolitan form of government the sheriff shall be the chief law enforcement officer (CLEO).

SECTION 39. The commission may negotiate and enter into reciprocal agreements with appropriate officials in other states to permit licensed or registered contract security companies or security guards/officers who meet or exceed the qualifications established in this part to operate across state lines under mutually acceptable terms.

SECTION 40. The commission shall provide a copy of this part and any rules promulgated hereunder as may be amended, to:

(1) Each licensee and proprietary security organization every two (2) years, at no charge; and

(2) Any other person, upon request, for such reasonable fee as the commission may fix.

SECTION 41.

(a) It is unlawful for any person knowingly to employ as a security guard/officer any individual who does not hold a valid registration card of the appropriate type, except as provided in Section 73(b) of this act.

(b) It is unlawful for any contract security company knowingly to publish any advertisement, letterhead, circular, statement, or phrase of any sort that suggests that such company is a government agency or instrumentality.

(c) It is unlawful for any security guard/officer knowingly to:

(1) Fail to return immediately on demand, or within twenty-four (24) hours of termination of employment, a firearm issued to him by an employer;

(2) Fail to return immediately on demand, or within seven (7) days of termination of employment, any uniform, badge, device, insignia, credential, keys or other item of equipment issued to him by an employer;

(3) Carry a firearm or facsimile of any firearm or item which may leave the impression that such security officer is armed with a firearm of any type in the performance of the officer's duties if not the holder of a valid "armed security guard/officer" registration card;

(4) Carry a firearm or facsimile of any firearm or item which may leave the impression that such security officer is armed with a firearm of any type in performance of his duties if not authorized to carry such firearm;

(5) Make any statement which would reasonably cause another person to believe that such security guard/officer functions as a sworn law enforcement officer or other government official; or

(6) Divulge to anyone other than the employer, or such persons as the employer may direct or as may be required by law, any information acquired during the employment that may compromise the security of any premises to which the officer has been assigned by such employer.

SECTION 42. Except as otherwise provided in this part, or in any rule or regulation promulgated pursuant thereto, a violation of this part, is a Class A misdemeanor.

SECTION 43. No city, county, or urban county government shall occupy any part of the field of regulation of private protective services unless expressly provided for herein.

SECTION 44. No person who is exempt from the licensing requirements of this chapter pursuant to §62-35-103(13) shall perform any private protective services duties at a shopping center complex or other business facility that has two (2) or more contiguous businesses. A person performing private protective services pursuant to §62-35-103(13) shall perform such services solely upon the premises of the business of such person's employer.

SECTION 45.

(a) All licenses, registrations and/or certifications issued pursuant to Title 62, Chapter 35, shall be subject to the provisions of this act, until their expiration.

(b) The commission shall have full authority to enforce the provisions of Title 62, Chapter 35, for acts and omissions occurring prior to the effective date of this act.

(c) This act does not affect rights or duties that matured, liabilities or penalties that were incurred, or proceedings begun before the effective date of this act.

SECTION 46. Any license, registration or certification issued under Title 62, Chapter 35, shall continue in effect until its expiration date.

SECTION 47. Tennessee Code Annotated, Section 4-29-226(a), is amended by deleting item (51) in its entirety.

SECTION 48. Tennessee Code Annotated, Section 4-29-225(a) is amended by adding a new item thereto, as follows:

( ) Tennessee private protective services commission, created by Section 5 of this act;

SECTION 49. For the purpose of appointing members to the commission and for the purpose of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2003, the public welfare requiring it.

